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| 10/697,634                    | 10/29/2003  | Nobuhiro Takeda      | B588-556 (25815.568) | 7331             |
| 26272                         | 7590        | 04/15/2009           | EXAMINER             |                  |
| COWAN LIEBOWITZ & LATMAN P.C. |             |                      | HERNANDEZ, NELSON D  |                  |
| JOHN J TORRENTE               |             |                      | ART UNIT             | PAPER NUMBER     |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                               |                     |  |
|------------------------------|-------------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b>        | <b>Applicant(s)</b> |  |
|                              | 10/697,634                    | TAKEDA, NOBUHIRO    |  |
|                              | <b>Examiner</b>               | <b>Art Unit</b>     |  |
|                              | Nelson D. Hernández Hernández | 2622                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 March 2009.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-10 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 23 October 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.   | 6) <input type="checkbox"/> Other: _____ .                        |

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 17, 2009 has been entered.

### ***Response to Amendment***

2. The Examiner acknowledges the amended claims filed on February 19, 2009.

**Claim 1** has been amended.

### ***Response to Arguments***

3. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new grounds of rejection. Although claim 9 has also been argued by the Applicant as being analogous to the invention in claim 1, the Examiner understands as explained in the Advisory Action mailed on March 16, 2009 that the limitations of claim 1 are not necessarily related to claim 9. The second correction unit in **claim 9** does not require the particulars of the second correction unit of **claim 1** (“*a second correction unit adapted to correct signals of the effective pixel area, which are corrected by said first correction unit, by evenly subtracting a representative value, which is based on the second reference signal, from the signals of the plurality of horizontal lines of the effective pixel area*”). Furthermore, the first correction unit in **claim 9** appears to be

different from the first correction unit of **claim 1** as now amended. Therefore, the Examiner understands that said first and second correction units of **claim 9** are not analogous to the first and second correction units of **claim 1** as argued.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1-4, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant Admitted Prior Art (AAPA) in view of Shimoyama et al., US Patent 5,355,164 and further in view of Tetsuji, JP 4-37166 A.**

**Regarding claim 1,** The Examiner noted that **claim 1** is presented using the phrase "adapted to" in the limitations "*a first correction unit adapted to correct signals of the effective pixel area by subtracting the first reference signal from each horizontal line signal of the effective pixel area with respect to each corresponding horizontal line; and*

*a second correction unit adapted to correct signals of the effective pixel area, which are corrected by said first correction unit, by evenly subtracting a representative value, which is based on the second reference signal, from the signals of the plurality of horizontal lines of the effective pixel area".*

It is noted by the Examiner that the term "adapted to" is non-limiting and therefore has not been given patentable weight during examination of the claims on

their merits. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. MPEP §2106.

The subject matter of a properly construed claim is defined by the terms that limit its scope. It is this subject matter that must be examined. As a general matter, the grammar and intended meaning of terms used in a claim will dictate whether the language limits the claim scope. Language that suggests or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. The following are examples of language that may raise a question as to the limiting effect of the language in a claim:

- (A) statements of intended use or field of use,
- (B) “adapted to” or “adapted for” clauses,
- (C) “wherein” clauses, or
- (D) “whereby” clauses.

This list of examples is not intended to be exhaustive. See also MPEP § 2111.04.

USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim should not be read into the claim. *E-Pass Techs., Inc. v. 3Com Corp.*, 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted “in view of the specification” without importing limitations from the specification into the

claims unnecessarily). In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550- 551 (CCPA 1969). See also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) (“During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.”). The Examiner suggests amending such limitations to give a positive recitation of their occurrence, such as replacing “adapted to” with “which when operable”, “operable to” or any other recitation that positively claim the subject matter.

**AAPA** discloses an image sensing apparatus (Fig. 7) using an image sensing element (1a), which has a plurality of pixels arrayed in horizontal and vertical direction, wherein:

the image sensing element includes an effective pixel area (effective area comprising photodiodes 1 as shown in fig. 7) which outputs signal of an object image, a first reference pixel area which outputs a reference pixel area (signal from the optical black region 6) which outputs a second reference signal, and

wherein a pixel in the reference pixel area is shielded from light and has a photo-electric conversion element and outputs a signal including dark current component

generated in the photoelectric conversion element (See AAPA, signals from optical black region 6);

    said image sensing apparatus comprising:

        a correction unit (second correction unit) adapted to correct signals of the effective pixel area while evenly subtracting a representative value based on the second reference signal (See page 1, line 13 – page 5, line 17).

AAPA does not explicitly disclose the claimed first reference signal, that a pixel in the first reference pixel area is shielded from light and does not have a photoelectric conversion element, and a correction unit (first correction unit) adapted to correct signals of the effective pixel area based on the first reference signal from each horizontal line signal of the effective pixel area with respect to each corresponding horizontal line and that said correction unit (second correction unit) performs said correction of said effective pixel area of evenly subtracting said representative value based on said second reference signal, from each horizontal line signal of the effective pixel area (Although these limitations have not receive patentable weight because of the use of the phrase “adapted to” in the claim language).

However, Shimoyama et al. teaches an image sensing apparatus (Fig. 4) using an image sensing element (Fig. 4: 1), comprising:

    a setting device which sets, in one image signal output from the image sensing element, a signal (effective image signal from region RP as shown in fig. 5) from a predetermined pixel region, a first reference signal for correction (from blind pixels BC

as shown in fig. 5; col. 3, line 45 – col. 4, line 11), and a second reference signal (from dummy pixels DC as shown in fig. 5; col. 3, line 45 – col. 4, line 11);

a first correction device which correct the signal from the predetermined pixel region for each row on the basis of the first reference signal set by said setting device (Shimoyama et al. teaches performing dark current correction to the image signal based on the signal values from the blind pixels (Col. 3, line 45 – col. 6, line34)). Shimoyama et al. also discloses that although the invention has been described for a linear sensor, the concepts taught can also be applied to an area sensor (Col. 5, lines 12-16) (a first correction unit adapted to correct signals of the effective pixel area by subtracting the first reference signal from each horizontal line signal of the effective pixel area with respect to each corresponding horizontal line as claimed); and

a second correction device which uniformly correct the signals from the predetermined pixel region on the basis of the second reference signal set by said setting device (Shimoyama et al. teaches performing dark current correction to the image signal based on the signal values from the dummy pixels (Col. 3, line 45 – col. 6, line34; see also col. 1, line 54 – col. 2, line 18)). Shimoyama et al. also discloses that although the invention has been described for a linear sensor, the concepts taught can also be applied to an area sensor (Col. 5, lines 12-16) (This teaches that in an area sensor environment the second correction device would uniformly correct the signals from the predetermined pixel region on the basis of the second reference, from set by said setting device).

Therefore, taking the combined teaching of AAPA in view of Shimoyama et al. as a whole, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Shimoyama et al. by using a first reference signal for signal correction, and a correction unit adapted to correct signals of the effective pixel area based on the first reference signal with respect to each horizontal line in combination with the correction unit for correcting the image signal (claimed second image signal) and to have the second correction unit performing said correction of said effective pixel area of evenly subtracting said representative value based on said second reference signal, from each horizontal line signal of the effective pixel area. The motivation to do so would have been to accurately correct dark current signals from the image signal wherein when measurement errors occur in the blind pixels output of a certain line due to noise, its influences are minimized and streaks can be prevented from occurring as suggested by Shimoyama et al. (Col. 5, lines 17-34).

Although the combined teaching of AAPA in view of Shimoyama et al. teaches using a first reference signal for signal correction, and a correction unit adapted to correct signals of the effective pixel area based on the first reference signal with respect to each horizontal line in combination with the correction unit for correcting the image signal (claimed second image signal), the combined teaching of AAPA in view of Shimoyama et al. fails to teach that the first reference pixel area is shielded from light and does not have a photoelectric conversion element; and that said correction unit adapted to correct signals of the effective pixel area corrects the signals based on the

first reference signal from each horizontal line signal of the effective pixel area with respect to each corresponding horizontal line.

However, Tetsuji discloses a solid-state imaging device comprising an effective pixel area (I as shown in fig. 1), a second pixel area shielded from light (II as shown in fig. 1) and a third area comprising the vertical register 12 also shielded from light and that does not have photoelectric conversion elements (III as shown in fig. 1), wherein said second and third areas are used to improve the reliability of the black signals used as a reference to correct the image signal captured by the first pixel area (See English Abstract; see also English Translation, page 6, line 4 – page 7, line 25). Tetsuji further discloses that after calculating output signals of an effective pixel area I (optical signal + dark current of a light receiving portion + dark current of a vertical shift register + dark current of a horizontal shift register + increased signal 1 of the vertical shift register), output signals of an optical black area II whose overall area is shielded from light (dark current of a light receiving portion + dark current of a vertical shift register + dark current of a horizontal shift register + increased signal 2 of the vertical shift register), output signals of an optical black area III which has no light receiving portions with the overall area being shielded from light (dark current of a vertical shift register + dark current of a horizontal shift register + increased signal 2 of the vertical shift register), and output signals of an optical black area IV which has no light receiving portions with the overall area having an area for the light receiving part opened to let the light hit said area (dark current of a vertical shift register + dark current of a horizontal shift register + increased signal 1 of the vertical shift register), Tetsuji teaches that when in operation the signal of

a pixel is corrected by subtracting the noises represented by signals of the areas II, III and IV, represented as  $V_1$ ,  $V_2$ , and  $V_3$  respectively from the image signal of said pixel, said signal represented as  $V$ , by using the equation  $A = V - V_1 + V_2 - V_3$ . in said equation the reference noise signals related to areas II, III and IV from the areas subtracted from the signals of the area I in a way that when reading a particular row, the pixel signals of said row would have subtracted the reference noise signals of the areas used as a reference for said row (See English Abstract; see also English Translation, page 6, line 4 – page 7, line 25). The Examiner understands that since the sensor would read the image signals in a row-by-row basis, the signal recovery of the image is inherently performed by subtracting the reference signals with respect to each corresponding horizontal line. Therefore, the correction unit is adapted to correct signals of the effective pixel area by subtracting the first reference signal with respect to each corresponding horizontal line since the reference signals from the portion that is covered and does not have a photoelectric conversion element (as shown in area III) is subtracted from the image signals of a pixel in particular row that corresponds to the area used as a reference in the same row (See English Abstract; see also English Translation, page 6, line 4 – page 7, line 25). As explained above, the limitations “*a second correction unit adapted to correct signals of the effective pixel area, which are corrected by said first correction unit, by evenly subtracting a representative value, which is based on the second reference signal, from each horizontal line signal of the effective pixel area with respect to each corresponding horizontal line*” do not positively

recite the claim limitations “from each horizontal line signal of the effective pixel area” and thus has not received patentable weight.

Therefore, taking the combined teaching of AAPA in view of Shimoyama et al. and further in view of Tetsuji as a whole, it would have been obvious to one of an ordinary skill in the art at the time the invention was made to modify AAPA and Shimoyama et al. by having the first reference pixel area shielded from light and does not have a photoelectric conversion element and using said first reference signal for signal correction, wherein the correction unit would be adapted to correct signals of the effective pixel area based on the first reference signal with respect to each corresponding horizontal line. The motivation to do so would have been to improve the reliability of the black signals used as a reference to correct the image signal captured by the effective pixel area.

**Regarding claim 2,** the combined teaching of AAPA in view of Shimoyama et al. and further in view of Tetsuji as discussed and analyzed in claim 1 teaches that the first reference signal includes a signal free from influence of a signal converted by a photoelectric conversion element of the image sensing element (See Shimoyama et al., signal from blind pixels, Col. 3, line 45 – col. 6, line34; see also col. 1, line 54 – col. 2, line 18), and the second reference signal includes a signal containing a dark current component generated in the photoelectric conversion element of the image sensing element (See AAPA, signals from optical black region 6; Shimoyama et al., signals from dummy pixels DC). Grounds for rejecting claim 1 apply here.

**Regarding claim 3,** the combined teaching of AAPA in view of Shimoyama et al. and further in view of Tetsuji as discussed and analyzed in claim 1 teaches that the second reference signal includes a signal obtained in a region which includes the photoelectric conversion element in the image sensing element and is shielded from incident light (See AAPA, signals from optical black region 6; Shimoyama et al., signals from dummy pixels DC). Grounds for rejecting claim 1 apply here.

**Regarding claim 4,** the combined teaching of AAPA in view of Shimoyama et al. and further in view of Tetsuji as discussed and analyzed in claim 1 teaches that the first reference signal includes a signal obtained in a region which does not include the photoelectric conversion element in the image sensing element (See Shimoyama et al., blind pixels BC as shown in fig. 5; col. 3, line 45 – col. 4, line 11). Grounds for rejecting claim 1 apply here.

**Regarding claim 9,** the subject matter of claim 9 is also present in claim 1. Therefore, the limitations of claim 9 have been discussed and analyzed in claim 1.

**Regarding claim 10,** limitations can be found in claim 3.

**6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant Admitted Prior Art (AAPA) and Shimoyama et al., US Patent 5,355,164 in view of Tetsuji, JP 4-37166 A and further in view of Ookawa, US Patent 6,353,223 B1.**

**Regarding claim 5,** the combined teaching of AAPA in view of Shimoyama et al. and further in view of Tetsuji fails to teach that the first reference signal includes a signal output from a reference power supply for each row of the predetermined pixel region.

However, Ookawa teaches the concept of using a voltage source (Fig. 1; 18) as a reference voltage to correct the image signal form noises generated from temperature changes (Col. 1, line 8 – col. 3, line 18).

Therefore, taking the combined teaching of AAPA and Shimoyama et al. in view of Tetsuji and further in view of Ookawa as a whole, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify AAPA, Shimoyama et al. and Tetsuji by using a voltage source to supply a reference signal for each row of the predetermined pixel region. The motivation to do so would have been to correct the image data accordingly to noise changes due to temperature as suggested by Ookawa (Col. 1, line 8 – col. 3, line 18).

**7. Claims 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant Admitted Prior Art (AAPA) and Shimoyama et al., US Patent 5,355,164 in view of Tetsuji, JP 4-37166 A and further in view of Ide et al., US Patent 6,304,292 B1.**

**Regarding claim 6,** the combined teaching of AAPA in view of Shimoyama et al. and further in view of Tetsuji as discussed and analyzed in claim 1 teaches that the second correction device has a storage device which stores the signal from the effective pixel area (See AAPA, page 2, line 18 – page 3, line 9) but fails to teach a calculation device which calculates a representative value of the second reference signal (optical black signal), and a subtraction device which subtracts the representative value of the second reference signal that is calculated by the calculation device.

However, Ide et al. teaches an imager (See fig. 1: 12 and fig. 10), comprising an optical black detection area (See fig. 10) and an effective pixel area (See fig. 10), wherein the signal values from the optical black detection area are averaged by a clamp level calculation circuit (Fig. 9: 50) and the averaged values of the signals from the optical black detection area are subtracted for the image signal (Col.6, line 53 – col. 7, line 36; col. 9, line 14 – col. 10, line 31).

Therefore, taking the combined teaching of AAPA and Shimoyama et al. in view of Tetsuji and further in view of Ide et al. as a whole, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify AAPA, Shimoyama et al. and Tetsuji by having a calculation device which calculates a representative value of the second reference signal (optical black signal), and a subtraction device which subtracts the representative value of the second reference signal that is calculated by the calculation device. The motivation to do so would have been to prevent the black level deviation from occurring as suggested by Ide et al. (Col. 2, lines 52-63).

**Regarding claim 8**, limitations can be found in claim 6.

**8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant Admitted Prior Art (AAPA) and Shimoyama et al., US Patent 5,355,164 in view of Tetsuji, JP 4-37166 A and further in view of Abe, US Patent 6,700,609 B1.**

**Regarding claim 7**, the combined teaching of AAPA in view of Shimoyama et al. and further in view of Tetsuji fails to teach that the calculation device has a calculation device which calculates representative values of the second reference signal for a

plurality of regions obtained by dividing the region which includes the photoelectric conversion element in the image sensing element and is shielded from incident light, and a device which outputs to the subtraction device a lowest value among the representative values of the plurality of regions that are calculated by the calculation device.

However, Abe teaches an imaging apparatus (Fig. 3), comprising an image sensor (Fig. 3: 1), said image sensor comprising an optical black region (Fig. 1: 21), wherein said optical black region is divided into a plurality of regions (every line has a black portion which is compared to other black portion of the adjacent lines, this teaches dividing the black region into a plurality of black portions), and wherein the vale of the black region corresponding to a line is compared to another black region corresponding to an adjacent line to find an absolute difference between the values (this is read as a representative value), wherein the absolute difference is compared to a predetermined value and if the absolute value is lower than the predetermined value, said absolute value would be used to correct the image signal by sending the average clamp level to a subtracter to subtract it from the image signal and if is larger than the predetermined value the clamp level would be updated (Col. 3, line 60 – col. 5, line 48).

Therefore, taking the combined teaching of AAPA and Shimoyama et al. in view of Tetsuji and further in view of Abe as a whole, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify AAPA, Shimoyama et al. and Tetsuji by having a calculation device which calculates representative values of the second reference signal for a plurality of regions obtained by dividing the region

which includes the photoelectric conversion element in the image sensing element and is shielded from incident light, and a device which outputs to the subtraction device a lowest value among the representative values of the plurality of regions that are calculated by the calculation device. The motivation to do so would have been to improve the image sensing apparatus by correcting the dark current for each row thus flicker is avoided as suggested by Abe (Col. 6, lines 9-24).

***Contact***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nelson D. Hernández Hernández whose telephone number is (571) 272-7311. The examiner can normally be reached on 9:00 A.M. to 5:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lin Ye can be reached on (571) 272-7372. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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NDHH  
April 9, 2009

/Lin Ye/

Supervisory Patent Examiner, Art Unit 2622